

**From:** Phillip Hofmeister  
**To:** Microsoft ATR  
**Date:** 12/14/01 8:18pm  
**Subject:** United States v. Microsoft Settlement

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To whom it may concern:

I am a concerned citizen of the State of Michigan who sees the proposed DOJ and Microsoft settlement to be inadequate for true justice and the national interest.

As can be seen throughout the course of the past 20 years, Microsoft's market share in the computer industry has steadily risen. Along with this rise has also come a rise in prices of Microsoft's operating systems and software (a rise in price that is faster than the rate of inflation). One can only assume this rise will continue as Microsoft's hold on the market becomes stronger. This is the exact reason that unregulated monopolies are NOT in the favor of national interest. As Microsoft continues to drive competition out of the market its prices will only continue to rise (I would be highly surprised if anything contrary to this happens). The proposed settlement does not adequately protect consumers and competition from this horrible, grim future.

A few of the many problems I see with the proposed judgement are mentioned below:

III.C.1 ...provided that the restrictions are non-discriminatory with respect it non-Microsoft and Microsoft products.

This portion of the judgement is open to manipulation and interpretation. What exactly qualifies as "non-discriminatory"? It is not specified in the definitions. This leaves the door open to a year or more debate down the road as to what is discriminatory and what is not, which equates to loss of several thousands of dollars in taxpayers' money in legal expenses. This is definitely not in the public's best interest.

II.C.2 ...so long as such shortcuts do not impair the functionality of the user interface

One again, this statement is opened to much interpretation and the same problems as section III.C.1 (mentioned above).

IV.A.2 To determine and enforce compliance with this Final Judgment, duly authorized representatives of the United States and the plaintiff States, on reasonable notice to Microsoft and subject to any lawful privilege, shall be permitted the following:

Not that I do not trust Microsoft, but what would prevent them from "loosing" such documents when they receive this notice? Who could prove if this "loss" was accidental or intentional? The plaintiffs should have the right to inspect documents and source code without notice.

IV.A.4 The Plaintiffs shall have the authority to seek such orders as are necessary from the Court to enforce this Final Judgment, provided, however, that the Plaintiffs shall afford Microsoft a reasonable opportunity to cure alleged violations of Sections III.C, III.D, III.E and III.H, provided further that any action by Microsoft to cure any such violation shall not be a defense to enforcement with respect to any knowing, willful or systematic violations.

There is no limit place on what is a "reasonable time". Is it a year? A week? During this time it takes Microsoft to "cure" the problem it is still there. Microsoft should be required to pay damages for the time the problem was not "cured". This provision would encourage them to "cure" the problem quicker. In addition, there is no provision that says what will happen if the problem reappears after it is "cured". Does the process start over again with the same problem as the first time?

V.A Unless this Court grants an extension, this Final Judgment will expire on the fifth anniversary of the date it is entered by the Court.

Why does Justice and a settlement that is supposedly in favor of the nation's interests expire? Are we only concerned with the nation's interest for 5 years? This clause effectively allows the whole battle to begin once more in 5 years. I do not believe anyone wants to endure this battle again.

I would urge the reconsideration of this proposed settlement.

Respectfully submitted,

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